

REMARKS

After entry of this Amendment, the pending claims are: claims 1, 3, 5, 7-15, 17-20, 25-27. Claims 2, 4, 6, 16, 21-24, and 29-32 were previously withdrawn. The Office Action dated July 2, 2004 has been carefully considered. Claim 28 has been canceled. No new matter has been added. Reconsideration and allowance of the present application in view of the above amendments and the following remarks is respectfully requested.

In the Office Action dated July 2, 2004, the Examiner:

- objected to claim 28 under 37 C.F.R. 1.75(c) for failing to further limit the subject matter of a previous claim;
- rejected claims 1, 3, 5, 7-15, 20, and 25-28 under 35 U.S.C. § 102(e) as being anticipated by United States Patent No. 6,517,542 to Papay *et al.* ("Papay"); and
- rejected claims 17-19 under 35 U.S.C. § 103(a) as being unpatentable over Papay.

Dependent Claim 28

Dependent claim 28 was objected to under 37 C.F.R. 1.75(c) for failing to further limit the subject matter of a previous claim. In accordance with the Examiner's recommendation, claim 28 has been canceled without prejudice. Withdrawal of this rejection is respectfully requested.

Independent Claim 1

Independent claim 1 was rejected under 35 U.S.C. § 102(e) as being anticipated by Papay. Independent claim 1 recites, *inter alia*, a fixation device comprising an implant body having first and second ends, the first end having an opening configured and adapted to receive an insertion tool and the second end having a recess; and a graft interface member having a graft holding portion and an implant coupling portion, at least a portion of the coupling portion is configured and adapted to be received in the recess. It is respectfully submitted that Papaya does not disclose, teach or suggest a fixation device comprising an implant body having first and second ends, wherein the first end has an opening configured and adapted to receive an insertion tool and the second end has a recess configured and adapted to receive at least a portion of a graft interface member. Rather, Papaya discloses a

NYJD-15402111

bone screw 42 having a distal end 254 with a recess for receiving a mechanical insert 244 and a proximal end 246 having a tip which is sized and configured to be both self boring and self-tapping. Papaya discloses that the bone screw 42 may be cannulated in order to enhance the osteogenesis process. Papaya discloses a bone screw which receives the insertion tool and the mechanical insert on the same end. Thus, it is respectfully submitted, that Papaya does not disclose, teach or suggest a fixation device comprising an implant body having first and second ends, wherein the first end has an opening configured and adapted to receive an insertion tool and the second end has a recess configured and adapted to receive at least a portion of a graft interface member. Therefore, it is respectfully submitted that Papaya does not disclose, teach, or suggest all the limitations of independent claim 1. Thus, it is respectfully submitted that independent claim 1 is allowable over the cited prior art. Withdrawal of this rejection and allowance of independent claim 1 is respectfully requested.

Dependent claims 3, 5, 7-15, 17-20, 25-27 all ultimately depend from independent claim 1, thus, it is respectfully submitted that these claims are equally allowable for at least this reason. Allowance of claims 3, 5, 7-15, 17-20, 25-27 is therefore respectfully requested.

Furthermore, claims 2, 4, 6, and 16, were previously withdrawal as being directed to a non-elected embodiment. It is respectfully submitted that independent claim 1 is generic. Therefore allowance of claims 2, 4, 6, and 16 is also respectfully requested.

In light of the above amendments and remarks, it is respectfully submitted that claims 1-20, and 25-27 are now in condition for allowance, and the Examiner is respectfully requested to reconsider this application with a view towards allowance. The Examiner is invited to call the undersigned attorney at 212-326-7883, if a telephone call could help resolve any remaining issues.

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Respectfully submitted,

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